

§ 17.107

§ 17.107 Stay of offset.

If the debtor timely notifies the Secretary that he or she is exercising a right described in § 17.104 or § 17.106, the offset will be stayed until the Secretary either makes a determination concerning the debtor's proposal to repay the debt or issues a written decision following review of the record or, where appropriate, a hearing. However, interest continues to run during any stay.

§ 17.108 Types of review.

(a) *Hearing.* The Secretary will provide the debtor with a reasonable opportunity for hearing if:

(1) An applicable statute authorizes or requires the Secretary to consider waiver of the indebtedness and the waiver determination turns on credibility or veracity; or

(2) The debtor requests reconsideration of the debt and the Secretary determines that the question of the indebtedness cannot be resolved by review of the documentary evidence.

(b) *Review of the record.* Unless the Secretary determines that a hearing is required (see paragraph (a) of this section), the Secretary will provide for a review of the record (a review of the documentary evidence).

§ 17.109 Review procedures.

(a) *Hearings.* (1) The appropriate Deputy Assistant Secretary (DAS) or designee conducts the hearing. The DAS or designee will take steps necessary to ensure that the hearing is conducted in a fair and expeditious manner. If necessary, the DAS or designee may administer oaths of affirmations.

(2) The DAS or designee does not use the formal rules of evidence with regard to admissibility of evidence or the use of evidence once admitted. However, parties may object to clearly irrelevant material.

(3) The DAS or designee records all significant matters discussed at the hearing. There is no "official" record or transcript provided for these hearings.

(4) A debtor may represent himself or herself or may be represented by an attorney or other person. The Secretary is represented by the General Counsel or his or her designee.

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(5) The Secretary proceeds first by presenting evidence on the relevant issues. The debtor then presents his or her evidence regarding these issues. The Secretary then may offer evidence to rebut or clarify the evidence introduced by the debtor.

(b) *Review of the record.* The appropriate DAS or designee will review all material related to the debt which is in the possession of the Department. The DAS or designee makes a determination based upon a review of this written record, which may include a request for reconsideration of the determination of indebtedness, or such other relevant material submitted by the debtor.

§ 17.110 Determination of indebtedness and appeal from determination.

(a) Following the hearing or the review of the record, the DAS or designee will issue a written decision which includes the supporting rationale for the decision. The decision of the DAS or designee is the final agency action with regard to the particular administrative offset.

(b) Copies of the DAS decision will be distributed to the debtor and the debtor's attorney or other representative, if applicable.

[36 FR 24427, Dec. 22, 1971. Redesignated at 49 FR 32349, Aug. 14, 1984 (interim), as amended at 59 FR 34580, July 6, 1994]

§ 17.111 Procedures for administrative offset: single debt.

(a) Offset will commence 31 days after the debtor receives the Notice of Intent, unless the debtor has requested a hearing (see § 17.104) or has entered into a repayment agreement (see § 17.106).

(b) When there is review of the debt within the Department, offset will begin after the DAS determination has been issued under § 17.110 and a copy of the determination is received by the Department's Office of Finance and Accounting.

§ 17.112 Procedures for administrative offset: multiple debts.

The Secretary will use the procedures identified in § 17.111 for the offset of multiple debts. However, when collecting multiple debts the Secretary